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6 Attorneys for Plaintiffs

7 UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA

9 GIL CROSTHWAITE, et al.,

10 Plaintiffs,

11 v.

12 RYAN McCLURE EXCAVATION, INC.

13 Defendant.

Case No.: C08-2403 JSW

**REQUEST FOR CONTINUANCE OF
CASE MANAGEMENT CONFERENCE;
AND DECLARATION OF SHAAMINI A.
BABU IN SUPPORT THEREOF**

Date: February 27, 2009

Time: 1:30 p.m.

Ctrm: 2, 17th Floor

Judge: The Honorable Jeffrey S. White

16 1. This action was filed on May 9, 2008, to recover delinquent fringe benefit
17 contributions pursuant to the Employee Retirement Income Security Act of 1974 (ERISA).

18 2. Saltzman & Johnson Law Corporation is counsel for Plaintiffs Gil Crosthwaite, et
19 al. ("Plaintiffs"). Defendant Ryan McClure Excavation, Inc. ("Defendant") is represented by legal
20 counsel Murphy, Campbell, Guthrie & Alliston, but Defendant has not yet appeared in this action.

21 3. In July 2008, and again on December 8, 2008, Defendant's counsel provided
22 relevant documents to Plaintiffs' counsel that established certain amounts owed by Defendant. In
23 order to have sufficient opportunity to review the documents and meet and confer with
24 Defendant's counsel, Plaintiffs' counsel requested continuances of the Case Management
25 Conference.

26 4. On January 15, 2009, Defendant's counsel notified Plaintiffs' counsel in writing
27 that it recently learned that Defendant's corporate status had been "suspended" and that pursuant
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1 to Revenue and Taxation Code §23301 and California Corporations Code §2205, the corporate
2 powers, rights, privileges of Defendant had been suspended thereby prohibiting Defendant from
3 defending itself in litigation.

4 5. On January 20, 2009, Plaintiffs' counsel requested additional relevant documents
5 from Defendant which have not been provided to date.

6 6. On February 17, 2009, Plaintiffs counsel notified Defendant's counsel that
7 Defendant must file an Answer before February 20, 2009. Defendant's counsel advised Plaintiffs'
8 counsel that Defendant will not have revived its corporate status from "suspended" to "active" by
9 that time and cannot appear in the action until Defendant's corporate status was "active."
10 Defendant's counsel could not provide a date certain when Defendant's corporate status would
11 become "active" and thus, Plaintiffs' counsel advised Defendant's counsel that Plaintiffs will
12 proceed to Request Entry of Default and thereafter, file a Motion for Default Judgment.

13 7. Plaintiffs' Request for Entry of Default was filed with the Court today.

14 8. Plaintiffs are attempting to obtain additional information relevant to their Motion
15 for Default Judgment from other sources and will file said motion upon completion of their
16 investigations.

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I declare under penalty of perjury that I am the attorney for the plaintiffs in the above entitled action, and that the foregoing is true of my own knowledge.

SALTZMAN & JOHNSON
LAW CORPORATION

IT IS SO ORDERED.

Date: February 24, 2009


United States District Court Judge